

## MEMORANDUM

L-37-332  
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Washington, D. C. May 26, 1937

TO Mr. Schreiber

FROM Mr. Caskie

SUBJECT The Kansas and Missouri Railway and Terminal Company

The Kansas and Missouri Railway and Terminal Company has filed its completed statement in response to our questionnaire Form LQ-1. This Company also filed a return to a questionnaire prepared by the former Railroad Retirement Board in 1934. The following memorandum is based on information contained in these two responses to questionnaires:

The Kansas and Missouri Railway and Terminal Company was incorporated in Kansas November 15, 1922, to operate a belt railroad in and near Kansas City. During the first two years of its existence, the Company was jointly controlled by the Kansas City Southern Railway Company, a common carrier by steam railroad, subject to the Interstate Commerce Act, and J. J. Heim, an individual. By virtue of authority granted by the Interstate Commerce Commission in Control of Kansas and Missouri Railway and Terminal Company, 86 I.C.C. 631, the Company was jointly controlled by the Kansas City, Kaw Valley and Western Railway and the Kansas City Southern Railway. On December 1, 1924, the Kansas City Southern Railway Company acquired complete control of the Terminal Company. Control of Kansas and Missouri Railway and Terminal Company by Kansas City Southern Railway Company, 94 I.C.C. 127. Such control is direct through ownership of 100% of the capital stock. Although this Company was incorporated November 15, 1922, it did not begin operations until July 1, 1924. It has filed annual reports with the Interstate Commerce Commission since the beginning of its operations.

The Company operates 5.56 miles of track and switches extending between 19th Street and Osage Avenue, and 3rd Street and New Jersey Avenue, all within Kansas City, Kansas. All trackage is standard gauge, laid with 85-pound rail, rock ballasted. This trackage since the beginning of the Company's operations has connected directly with the Missouri Pacific Railroad Company, the Chicago, Rock Island and Pacific Railway Company, the Kansas City, Kaw Valley and Western Railroad Company, the Kansas City Railway Terminal Company, and the Kansas City Southern Railway Company. Over the tracks of the foregoing carriers, it has access to the Chicago and Alton Railroad, the Atchison, Topeka and Santa Fe Railway Company, the Chicago, Burlington and Quincy Railway Company, the Chicago Great Western Railroad Company, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, the Kansas City Connecting Railroad Company, the Missouri-Kansas-Texas Railroad Company, the St. Louis-San Francisco Railway Company, the Union Pacific Railroad Company, and the Wabash Railway Company. All of the Company's mileage with the exception of 3.7% is located on private right of way.

Since its organization, this Company has been operated as a switching railroad, switching cars between all connecting carriers. The number of cars interchanged with these connecting carriers during each year since its incorporation varied between 23,051 cars in 1929 to 7,327 cars in 1933. In 1936 the Company interchanged 11,518 cars. The Company has reported only revenues from switching and "other railway" operations. Switching revenues rose from \$32,735 in 1924 to \$77,169 in 1929, thereafter fell to \$30,324 in 1933, and have since increased to \$52,448 in 1936. Revenue from other railway operations has been negligible, never amounting

to more than \$3,700 in any one year. It appears that 90% of this carrier's business is interstate. There are interstate switching tariffs, concurrences and powers of attorney of the Company on file with the Interstate Commerce Commission.

The Company has common officers and directors with the Kansas City Southern Railway Company and the Kansas City, Kaw Valley and Western Railroad Company. In its return to the 1934 questionnaire, the Company stated that it was not operated as a part of a general steam railroad system of transportation.

"Notwithstanding the Company is wholly owned by the Kansas City Southern Railway Company, it is operated as an independent terminal carrier, although it is generally referred to as one of the system lines of the Kansas City Southern Railway Company."

An affiliated company, the Kansas City, Kaw Valley and Western Railroad Company, furnishes and operates the electric locomotives used by the Kansas and Missouri Railway and Terminal Company in its business. These locomotives are furnished under the usual contract rates, and therefore the Terminal Company has no train or yard employees on its payroll, all persons performing such services for them being reported by the Kansas City, Kaw Valley and Western Railroad Company.

In Finance Docket No. 3129, Construction of Line by Kansas and Missouri Railway and Terminal Company, 82 I.C.C. 612 (1923), the Company applied for a certificate of public convenience and necessity under Section 1 (18) of the Interstate Commerce Act, authorizing it to construct and operate a belt line railroad aggregating about 6.34 miles, all of which was to be located entirely within Kansas City, Kansas. In this case, the Commission referred to the fact that the Company intended to acquire and complete the property formerly owned and operated by the Kansas City Outer Belt and Electric Railroad Company, which had been purchased under foreclosure by an individual acting as agent for the stockholders of the Kansas City, Kaw Valley and Western Railroad. After discussing the proposed operating relationship between the terminal company and the Kaw Valley, together with the prospective traffic to be moved by the terminal company, the Commission granted the certificate of public convenience and necessity on October 31, 1923.

In Finance Docket No. 3130, Securities of the Kansas and Missouri Railway and Terminal Company, 86 I.C.C. 559 (1924), the Company applied for authority under Section 20(a) of the Interstate Commerce Act to issue capital stock and bonds, the proceeds from the sale of these securities to be used to purchase the Kansas City Outer Belt and Electric Railway Company. The requested authority was granted.

In Finance Docket No. 3139, Control of Kansas and Missouri Railway and Terminal Company, 86 I.C.C. 631 (1924), the Commission granted authority under Section 5 (2) of the Interstate Commerce Act, permitting the Kansas City, Kaw Valley and Western Railway Company and the Kansas City Southern Railway Company, jointly, authority to acquire control of the Kansas and Missouri Railway and Terminal Company.

In Finance Docket No. 4357, Control of Kansas and Missouri Railway and Terminal Company by Kansas City Southern Railway Company, 94 I.C.C. 127 (1924), under Section 5 (2) of the Interstate Commerce Act, the Commission authorized the Kansas City Southern Railway to acquire sole control of the Kansas and Missouri Railway and Terminal Company by purchase of its entire capital stock.

In Finance Docket No. 4774, Construction of Extension by Kansas City Southern Railway Company, 99 I.C.C. 274 (1925), the Kansas City Southern Railway Company applied for, and was granted authority under Section 1 (18) of the Interstate

Commerce Act, to construct a new connection between its lines and the lines of the Kansas and Missouri Railway and Terminal Company.

In a supplemental report on Finance Docket No. 3130, Securities of Kansas and Missouri Railway and Terminal Company, 138 I.C.C. 690 (1928), supplementing original report in 86 I.C.C. 559, the Commission permitted certain changes in the restrictions previously ordered with respect to investment of the Company's funds.

In Valuation Docket No. 1179, Kansas and Missouri Railway and Terminal Company, 46 Val. Rep. 689 (1934), the Commission fixed a final value for rate-making under Section 19 (a) of the Interstate Commerce Act, of the property of the Kansas and Missouri Railway and Terminal Company.

It should be noted that Sections 1(18), 19(a) and 20(a) of the Interstate Commerce Act referred to above, contain exemptions of electric railways substantially similar to that found in Section 1 (a) of the Railroad Retirement Act of 1935. The Commission by taking jurisdiction in these cases, impliedly rules the Company to be more than a street, suburban or interurban electric railway.

Based on the foregoing facts and cases, it is my opinion that the Kansas and Missouri Railway and Terminal Company is more than a street, suburban or interurban electric railway company, does not fall within the terms of the exemption proviso of Section 1 (a) of the Railroad Retirement Act of 1935, and is therefore a carrier within the meaning of that Act, service with which should be creditable under the Act as service for a carrier from July 1, 1924 to date.

/s/ M. M. Caskie, Jr.  
M. M. Caskie, Jr.

Belt Railroad

Heim, J.J.

Kansas City Southern Ry. Co.

Kansas City, Kaw Valley and Western Ry.

Control & Stock Ownership

Standard Gauge

Carrier Connections

Switching R.R.

Directors, Interlocking

Mr. Clark  
Mr. Schreiber  
Chicago Burlington & Quincy Railway  
The Pullman Company - Employs 14,000

The documents attached hereto were prepared by the writer photo-  
static copies of the original documents. The original documents are  
certified copies, and should be secured from the  
the Empires, and should be secured from the

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